

§218.104 Exemption of States from certain interest and penalties.

(a) States are exempt from being assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973, as amended, or any regulation issued by the Secretary of Energy thereunder concerning the certification or processing of crude oil taken in-kind as royalty by the Secretary.

(b) Any State shall be assessed for its share of any overcharge resulting from a determination that DOI failed to comply with the Emergency Petroleum Allocation Act of 1973, as amended. Each State's share shall be assessed against monies owed to the State. Such assessment shall be first against monies owed to such State as a result of royalty audits prior to January 12, 1983, the enactment date of the Federal Oil and Gas Royalty Management Act of 1982, then against other monies owed. The State shall be liable for any balance.

(c) A State's liability for repayment of an overcharge under this section shall exist for any amounts resulting from a judgment in a civil suit or as the result of settlement of a claim through a negotiated agreement. State liability would be offset against future mineral revenue distributions to the State.

[49 FR 37347, Sept. 21, 1984]

§218.105 Definitions.

Terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

[49 FR 37347, Sept. 21, 1984]

Subpart D—Oil, Gas and Sulfur, Offshore

§218.150 Royalties, net profit shares, and rental payments.

(a) As specified under the provisions of the lease, the lessee shall submit all rental payments when due and shall pay in value or deliver in production all royalties and net profit shares in the amounts of value or production determined by MMS to be due.

(b) The failure to make timely or proper payments of any monies due

pursuant to leases, permits, and contracts subject to these regulations will result in the collection of the amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with instructions provided by MMS to the payor.

(c) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the MMS addresses specified in §218.51(f)(1) and (f)(2). Payments received at the specified MMS addresses after 4 p.m. mountain time are considered received the following business day.

(d) Late payment charges apply to all underpayments and payments received after the date due. These charges include production and minimum royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/payor/permittee/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due amounts, including late payment charges, will result in the initiation of other enforcement proceedings.

(e) An overpayment on a lease or leases, excluding rental payments, may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in §218.42.

[47 FR 22528, May 25, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and amended at 49 FR 37347, Sept. 21, 1984; 52 FR 23815, June 25, 1987; 57 FR 41868, Sept. 14, 1992; 57 FR 62206, Dec. 30, 1992]

§218.151 Rentals.

(a) Except for leases issued subject to net profit sharing provisions, an annual rental shall be due and payable in advance, at the rate specified in the oil and gas leases, on the first day of each lease year prior to discovery of oil or gas on the lease.

(b) The owner of any lease created by the segregation of a portion of a producing lease which is not subject to net

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profit sharing provisions and on which segregated portion there is no production, actual or allocated, shall pay an annual rental for such segregated portion at the rate per acre or hectare specified in the lease. This rental shall be payable each lease year following the year in which the segregation became effective and prior to a discovery on such segregated portion.

(c) Annual rental paid in any year shall be in addition to, and shall not be credited against, any royalties due from production.

(d) An annual rental on a lease for a mineral other than oil or gas, shall be due and payable, in advance, on the first day of each lease year prior to discovery in paying quantities, at a rate specified in the lease form.

(e) For leases issued subject to the net profit sharing provisions, annual rental payments shall be due and payable in advance, on the first day of each lease year which commences prior to the date the first profit share payment becomes due. The owner of any lease created by the segregation of a portion of a lease subject to net profit sharing provisions, shall pay an annual rental for such segregated portion at the rate per acre or hectare specified in the lease. This rental shall be payable each year following the year in which the segregation becomes effective and shall continue to be due and payable, in advance, on the first day of each year which commences prior to the date the first profit share payment becomes due.

[44 FR 38276, June 29, 1979, as amended at 45 FR 69175, Oct. 17, 1980; 47 FR 25972, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982, and at 48 FR 35641, Aug. 5, 1983]

§218.152 Fishermen's Contingency Fund.

Upon the establishment of the Fishermen's Contingency Fund, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act and any holder of an exploration permit or of an easement or right-of-way for the construction of a pipeline, shall pay an amount specified by the Director, MMS, who shall assess and collect the specified amount from each holder and deposit it into the Fund. With respect to prelease exploratory drilling

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permits, the amount will be collected at the time of issuance of the permit.

[52 FR 5458, Feb. 23, 1987]

§218.153 [Reserved]

§218.154 Effect of suspensions on royalty and rental.

(a) If under the provisions of 30 CFR 250.10 (b)(2) through (b)(4), the Regional Supervisor, with respect to any lease, directs the suspension of both operations and production, or, with respect to a lease on which there is no producible well, directs the suspension of operations, no payment of rental or minimum royalty shall be required for or during the period of suspension.

(b) The lessee shall not be relieved of the obligation to pay rental, minimum royalty or royalty for or during the period of suspension if the Regional Supervisor:

(1) Under the provisions of 30 CFR 250.10(a) approves, at the request of a lessee, the suspension of operations or production, or both, or

(2) Under the provisions of 30 CFR 250.10(b)(1), (b)(5) through (b)(7), or (c) suspends any operation, including production.

(c) If the lease anniversary date falls within a period of suspension for which no rental or minimum royalty payments are required under paragraph (a) of this section, the prorated rentals or minimum royalties are due and payable as of the date the suspension period terminates. These amounts shall be computed and notice thereof given the lessee. The lessee shall pay the amount due within 30 days after receipt of such notice. The anniversary date of a lease shall not change by reason of any period of lease suspension or rental or royalty relief resulting therefrom.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979. Redesignated and amended at 47 FR 47006, 47007, Oct. 22, 1982. Further redesignated at 48 FR 35641, Aug. 5, 1983 and amended at 51 FR 19063, May 27, 1986; 54 FR 50616, Dec. 8, 1989]

§218.155 Method of payment.

(a) *Payment of royalties and rentals.* With the exception of first-year rental, the payor shall tender all payments in accordance with §218.51 of this part.